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FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
Magistrate Docket No. 07 MJ 2261

UNITED STATES OF AMERICA,

Plaintiff,

v.

Abel MARTINEZ-Perez,

Defendant

BY: 

DEPUTY

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **September 17, 2007** within the Southern District of California, defendant, **Abel MARTINEZ-Perez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

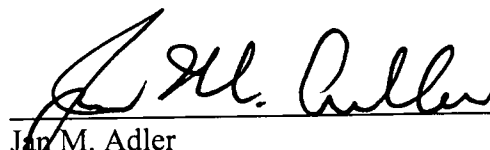
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 19th DAY OF SEPTEMBER,
2007



J. M. Adler
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Abel MARTINEZ-Perez

PROBABLE CAUSE STATEMENT

On September 17, 2007, Senior Patrol Agent J. Nesbit was working in an area known as "The Swamp". This area is approximately two and one half miles east of the San Ysidro, California Port of Entry and three hundred yards north of the United States/Mexico International Boundary Fence. Agent Nesbit was notified by the Remote Video Surveillance Operator, Senior Patrol Agent E. Juarez of two individuals walking north. Agent Nesbit was also advised of a seismic intrusion device activation in his area. Agent Nesbit responded to the area and found two individuals attempting to conceal themselves in some dense brush. Agent Nesbit identified himself as a Border Patrol Agent and questioned both individuals as to their citizenship and nationality. Both individuals, including one later identified as the defendant **Abel MARTINEZ-Perez**, admitted to being citizens and nationals of Mexico illegally present in the United States without having any immigration documents that would allow them to be or remain in the United States legally. Both individuals were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **July 25, 2007** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights, which he acknowledged and was willing to answer questions without having an attorney present. The defendant again freely admitted to being a citizen and national of Mexico in the United States illegally without proper immigration documents to enter or remain in the United States. The defendant stated that he illegally entered the United States with the intention of going to San Diego, California.